

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/GB2005/000476

International filing date (day/month/year)
11.02.2005

Priority date (day/month/year)
17.02.2004

International Patent Classification (IPC) or both national classification and IPC
A47J31/06, A47J31/40

Applicant
KRAFT FOODS R&D, INC.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

Box No. IV Lack of unity of invention

1. ☒ In response to the invitation (Form PCT/ISA/206) to pay additional fees, the applicant has:
- ☒ paid additional fees.
 - ☐ paid additional fees under protest.
 - ☐ not paid additional fees.
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is
- ☐ complied with
 - ☒ not complied with for the following reasons:
see separate sheet
4. Consequently, this report has been established in respect of the following parts of the international application:
- ☒ all parts.
 - ☐ the parts relating to claims Nos.

Box No. V Reasoned statement under Rule 43b/s.1(a)(i) with regard to novelty, Inventive step or Industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	6-9,15-17,23,26,27,31-35,43,45,50
	No: Claims	1-5,10-14,18-22,24,25,28-30,36-42,44,46-49,51
Inventive step (IS)	Yes: Claims	
	No: Claims	1-51
Industrial applicability (IA)	Yes: Claims	1-51
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item IV.

The separate inventions/groups of inventions are:

Claims 1-25,28-33,36-44,46-51

An insert containing ingredients for use in a beverage preparation machine.

Claims 26,27,34,35,45

An insert comprising coding means for controlling a beverage preparation machine.

They are not so linked as to form a single general inventive concept (Rule 13.1 PCT) for the following reasons:

The problem underlying the invention stated in the independent claim 1 is not novel and the same solution to it has already been found, see document US-5762987-A (**D1**), which discloses in combination, at least implicitly, all the features as defined in the present independent claim.

Therefore, the original single inventive concept also covering the subject matter of the claims 26, 27, 34, 35 and 45 is not acceptable anymore, making it necessary to re-establish the technical relationship or interaction of the technical features stipulated in said dependent claims 26, 27, 34, 35 and 45. This leads to a regrouping under different subjects as listed above, each subject now having its own distinct inventive concept, having a technical distinct and independent feature.

The special technical features, as defined in Rule 30 EPC, of the first group of claims, i.e. the shape, material and operative coupling of the insert to the brewing head, apparently solve the problem of providing an alternative to disposable cartridges.

The special technical features of the second group of claims, i.e. the machine readable code on the insert, and the necessary modifications to the brewing head apparently solve the problem of automatically controlling the operation of the coffee machine.

No same or similar special technical features can be determined and different underlying

problems are solved. Moreover, it is clear that the claimed inventions can be applied independently of each other, i.e. they are not necessarily inter-related.

It appears therefore that no technical relationship between the various claimed inventions exists involving one or more of the same or corresponding special technical features. The two groups of claims are thus not so linked as to form a single general inventive concept.

Re Item V.

1. DOCUMENTS CITED

Reference is made to the following document:

D1: US 5 762 987 A (PLEISCH JEAN-PIERRE ET AL) 9 June 1998 (1998-06-09)

2. INDEPENDENT CLAIM 1

- 2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of device claim 1 is not new in the sense of Article 33(2) PCT. Document **D1** discloses (fig.10):

An insert (sachet 58) for use in a beverage preparation machine of a type comprising a brew head suitable for receiving a rigid or semi-rigid cartridge (may be compacted into a cake, col.1 lines 56-58), the brew head comprising an upwardly directed inlet (64) for supplying water to the brew head and a downwardly directed outlet (66) for outflow of beverage produced by the machine, the insert comprising an upper part (upper half of sachet 58), a lower part (lower half of sachet 58) and sealing means (flange of sachet 58), the upper and lower parts being moveable between an open configuration in which a quantity of beverage ingredients may be loaded into the insert (before sealing, during manufacture) and a closed configuration (as shown) in which the upper and the lower parts are sealed together by the sealing means to define therebetween a brewing volume containing, in use, the quantity of beverage ingredients, the lower part comprising (when pierced) an inlet and an outlet arranged to communicate respectively with the inlet and outlet of the brew head of the beverage preparation machine when the insert is inserted

into the machine such that, in use, water from the inlet of the brew head passes upwardly through the inlet of the insert into the brewing volume and such that beverage produced from the water and the quantity of beverage ingredients passes downwardly through the outlet of the insert to flow out of the outlet of the brew head (col.9 lines 53-57; col.12 lines 18-21).

- 2.2 The above arguments apply, *mutatis mutandis*, to independent claim 36, whose subject-matter is therefore also not new.
- 2.3 The present application also does not meet the criteria of Article 33(1) PCT, because the subject-matter of method claim 51 is not new in the sense of Article 33(2) PCT. Document **D1** discloses (fig.10):

A method of dispensing a beverage using a beverage preparation machine comprising a brew head suitable for receiving a rigid or semi-rigid cartridge (may be compacted into a cake, col.1 lines 56-58), the brew head comprising an upwardly directed inlet (64) for supplying water to the brew head and a downwardly directed outlet (66) for outflow of beverage produced by the machine, the method comprising the steps of: opening a closure mechanism (jaw system, fig.11,12) of the beverage preparation machine; inserting an insert (sachet 58) into the brew head, the insert being as claimed in any of claims 1 to 35 and containing a quantity of beverage ingredients (see paragraph 2.1 above); closing the closure mechanism to squeeze the insert with sufficient force such that the sealing means of the insert seals together the upper and lower parts of the insert (col.12 lines 34-38); operating the beverage preparation machine to pass water upwardly from the inlet of the brew head through the inlet of the insert into the brew volume of the insert (fig.10); dispensing a beverage formed in the brew volume from the water and the beverage ingredients downwardly through the outlet of the insert and the outlet of the brew head (fig.10).

3. DEPENDENT CLAIMS 2-35, 37-51

Dependent claims 2-35, 37-51 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT).

The features of the above claims are either known from D1 or revealed in the prior art quoted in the search report. Their inclusion in the insert according to claim 1 can only be seen as an obvious option for the skilled person.